IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

Bail Appl..No. 6766 of 2007(J)

CRIME NO.376/07 OF MUVATTUPUZHA POLICE STATION

PETITIONER

JOBIN VARGHESE, S/O. VARGHESE,
AGED 31 YEARS, PALLIPPURATHU HOUSE, KATTAPPANA P.O., KATTAPPANA KARA, KATTAPPANA VILLAGE, UDUMPANCHOLA TALUK, IDUKKI DISTRICT.

BY ADV. SRI.MATHEW SKARIA
SRI.C.V.SABU

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

2. THE S.H.O., MUVATTUPUZHA POLICE STATION, MUVATTUPUZHA.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6766 of 2007

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Dated this the 26th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is on the array as the 4th accused now. Crime has been registered on the basis of a complaint filed by the authority under the Motor Vehicles Act. In the complaint filed, it is alleged that a fake/forged registration certificate is produced before the authority to effect transfer from the first accused to the second accused and also to make an endorsement regarding the availing of hire purchase loan from a financier. Verification revealed that the registration certificate produced was a forged one. The number shown in the R.C. book was not that of the Scorpio car which is sought to be transferred by the first accused to the second accused, but it related to a two wheeler. The complaint was filed showing accused 1 and 2 as suspected accused persons. The second accused came to this court and it is submitted by the learned Prosecutor that he has been granted anticipatory bail.

His interrogation revealed that the original registered owner of the vehicle had handed over the vehicle to one Biju and the said Biju had handed over the vehicle to the petitioner on "rent a car" basis. That vehicle was misutilised. A forged R.C. book was created and with the help of that the first accused had sold the vehicle to the second accused and hire purchase loan was also raised on the strength of the said R.C. book. Investigation is in progress. The petitioner apprehends imminent arrest.

2. According to the learned counsel for the petitioner, the petitioner has nothing to do with the first or second accused. According to him, some persons had come to the petitioner with a request to advance money as loan on the strength of the R.C. of a Scorpio car. The petitioner did not have money and did not enter into that transaction. Except this, the petitioner has no connection with and no knowledge of the transaction between accused 1 and 2. The petitioner is being dragged into the controversy unnecessarily. He may be granted anticipatory bail, it is prayed.

3. The learned Prosecutor opposes the application. He submits that the available indications in the form of oral evidence certainly point to the involvement of the petitioner. He has to be interrogated. Only then can truth be brought out. Permitting the petitioner to arm himself with an order or anticipatory bail would hamper the smooth course of investigation. The needle of suspicion points to the petitioner and he may not be granted anticipatory bail at this stage, submits the learned Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Prosecutor. I am unable to find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under section 438 Cr.P.C. in favour of the petitioner. This I am satisfied is a fit case where the petitioner must be directed to appear before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior

notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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